

Internal Revenue Service

District Director

Department of the Treasury

Quality Review Staff
P.O. Box 1055, Stop 516-D
Atlanta, GA 30370

Person to Contact:

Telephone Numbers:

Employer ID Number:

Date: APR 23 1992

P [REDACTED]
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Sir or Madam:

It has been determined that [REDACTED] is not entitled to exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code because the organization is not operated exclusively for one or more of the exempt purposes specified in section 501(c)(3) and the organization's net earnings have inured to the benefit of private individuals or shareholders.

You were notified of the Service's proposed denial of your exemption by letter dated January 29, 1992. This letter is to notify you that the denial is final effective January 29, 1992.

Contributions to your organization are not deductible under Code section 170. You are now required to file Federal income tax returns on Forms 1120. These returns should be filed with the appropriate service center.

The processing of income tax returns and assessment of any taxes due will not be delayed because a petition for declaratory judgment has been filed under Internal Revenue Code section 7428.

All information furnished by you was taken into consideration in reaching the conclusion stated above. We are required to provide the information in the following paragraph.

It is further determined that your failure to file a written appeal constitutes a failure to exhaust your available administrative remedies. However, if you decide to contest this determination in court, you must initiate a suit for declaratory judgment with the United States Tax Court, the United States Claims Court, or the United States District Court for the District of Columbia, before the 91st day after the date this determination is mailed to you. Contact the clerk of the appropriate court

[REDACTED]

for rules for initiating suits for declaratory Judgment.

The appropriate State officials will be notified of this action as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED]

[REDACTED]
District Director

SENDER: <ul style="list-style-type: none">• Complete Items 1 and/or 2 for additional services.• Complete Items 3, and 4a & b.• Print your name and address on the reverse of this form so that we can return this card to you.• Attach this form to the front of the mailpiece, or on the back if space does not permit.• Write "Return Receipt Requested" on the mailpiece below the article number.• The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.		I also wish to receive the following services (for an extra fee): <ol style="list-style-type: none">1. <input checked="" type="checkbox"/> Addressee's Address2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: [REDACTED]		4a. Article Number P [REDACTED]	
		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
5. Signature (Addressee) [REDACTED]		7. Date of Delivery 4-27-92	
6. Signature (Sender) [REDACTED]		8. Addressee's Address (Only if requested and fee is paid)	

PS For [REDACTED]

—287-008 DOMESTIC RETURN RECEIPT

Internal Revenue Service

District Director

Department of the Treasury

Quality Review Staff
P.O. Box 1055, Stop 516-D
Atlanta, GA 30370

Person to Contact:

Telephone Number:

Employer ID Number:

Date: JAN 29 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear Sir or Madam:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The organization was incorporated as a nonprofit corporation on [REDACTED]. Previously it had operated as part of the county government but when the county decided not to operate the market any more, your organization was formed. Your organization receives no income from the county. The organization's sole activity is to provide a place for area farmers to sell their produce. You charge farmers a fee for selling at the market. You also serve as an outlet for the county extension service programs and distribute their brochures. However, you do not have any educational programs of your own. You do not receive any financial support from the county but you have received a grant from the state to improve your facilities. Other than the grant, you have no other interaction with the state.

Section 501(c)(3) of the Code provides for exemption from federal income tax for organizations that are organized and operated exclusively for charitable, educational, religious, or scientific purposes, no part of the income of which inures to the benefit of private individuals.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of the exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term

[REDACTED]

"charitable" is used in its generally accepted legal sense. It includes relieving the poor and distressed or the underprivileged; combatting community deterioration; lessening neighborhood tensions; and eliminating prejudice and discrimination.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for charitable purposes unless it serves a public rather than a private interest.

Rev. Rul. 71-395, 1971-2 C.B. 228, held that a cooperative gallery formed by a group of artists to display and sell their works was not entitled to exempt status. This ruling emphasized that the gallery was a vehicle for advancing the careers of its members and for promoting the sales of their works. As such, it served the private purposes of its members, even though the exhibition and sale of paintings may be educational in nature.

Revenue Ruling 72-369, 1972-2 C.B. 245, describing an organization formed to provide managerial and consulting services at cost to unrelated exempt organizations. The ruling held that the organizations did not qualify for exemption under section 501(c)(3) of the Code. The ruling states that "an organization is not exempt merely because its operations are not conducted for the purposes of producing a profit...providing managerial and consulting services of a regular basis for a fee is a trade or business ordinarily carried on for profit."

Rev. Rul. 74-587, 1972-2 C.B. 162, provides that an organization is described in section 501(c)(3) if it provides low-cost financial assistance to various businesses in economically depressed areas where the owners could not otherwise get conventional financing. In this case, the organization was designed to serve charitable purposes such as the lessening of prejudice against minority groups, the elimination of poverty and lessening of neighborhood tensions, and combatting community deterioration.

Rev. Rul. 77-111, 1977-1 C.B. 144, sets forth two situations where a nonprofit organization seeks to revive retail sales or promote business patronage in areas suffering from economic decline. In Situation__1, the presented television and radio advertisements describing the advantages of shopping in the area; organized a speaker's bureau composed of local businessmen who discuss the shopping environment with various groups; operated a telephone service to inform prospective shoppers on transportation and accommodations in the area; and informed the news media of the area's problems and potential. In Situation__2, the organization proposed to advance the construction of a new shopping center to complement the area's existing retail facilities. In both situations, section 501(c)(3) exemption was denied because the overall thrust of the

organizations was to promote business rather than to accomplish charitable purposes, notwithstanding that the activities of both organizations served charitable purposes to some degree.

In Consumer-Farmer Milk Cooperatives, Inc. v. Commissioner of Internal Revenue, 186 F. 2d 68, (1950) the Court denied exemption under the predecessor to section 501(c) of the Code because the organization's purposes is primarily to benefit its members economically and only incidentally to further larger public welfare.

In Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court determined that, while some activities of the organization were educational, a substantial purpose of the organization was to promote business, and thus the organization was not operating exclusively for educational purposes.

In the general law of charity, the providing of services or benefits for the financial or commercial benefit of a group of persons is not regarded as a charitable endeavor. See IV Scott on Trusts, section 375, (3rd ed. 1967). This is true even though the services or benefits are provided on a nonprofit basis.

The information submitted indicates that your only activity is to provide a place for area farmers to sell their produce. There is no indication that your services are limited to low-income or minority farmers and you do not have any other educational or charitable programs. Therefore, there is no indication that the service you are providing will in any way further any charitable purposes within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations.

It does appear that your activities will promote business or business interest in a depressed area. However, as demonstrated in revenue rulings 71-395 and 77-111 and in Better Business Bureau cited above, the promotion of business and the business interests of individuals is not a charitable activity.

In addition Rev. Rul. 72-369 states that an organization which is nonprofit is not necessarily exempt because its operations are not designed to produce a profit and Rev. Rul. 74-587 and Consumer-Farmer Milk Cooperative cited above indicate that charitable organization must have a specific program designed to provide charity and cannot just incidentally or indirectly serve public purposes. Therefore, although some of your activities may contribute indirectly to the achievement of charitable purposes, the overall thrust is to promote business and private interests rather than to accomplish exclusively charitable purposes.

Accordingly, we rule that you do not qualify as an organization described in section 501(c)(3) of the Code. You are required to file federal income tax returns. Contributions to you are not deductible to donors under section 170 of the Code.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter. Further, if you do not appeal this determination within the time provided, it will be considered by the Internal Revenue Service as failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you have any further questions, please contact the _____ whose name and telephone number are given on the heading of this letter.

Sincerely yours,

District Director

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you with name of the person delivered to and the date of delivery. For additional fees the following services are available. Contact postmaster for fees and check boxes for additional service(s) requested.	
1. <input checked="" type="checkbox"/> Show to whom delivered, date, and addressee's address. (Extra charge)	2. <input type="checkbox"/> Restricted Delivery (Extra charge)
3. Article Addressed to:	4. Article Number
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
	Address obtain signature of addressee in space and DATE DELIVERED.
5. <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	6. Addressee's Address (ONLY if registered and fee paid)
7. Date of Delivery	

PS Form 3811, Mar. '88

DOMESTIC RETURN RECEIPT